

REMARKS

Applicants kindly thank the Examiner for his time to discuss this case by telephone. Reconsideration and withdrawal of the Examiner's rejections under 35 USC §§112 and 103 is requested in view of the foregoing amendments and the following remarks.

Information Disclosure Statement

The Examiner asserts that the information disclosure statement filed September 17, 2003 fails to comply with 37 CFR 1.98(a)(2), as no copy of the International Search Report was enclosed by applicants. In response, a copy of the ISR is hereby enclosed for the Examiner's review.

35 USC § 112

The Examiner asserts that the phrase "less than about" in claims 1 and 29 renders the claim vague and indefinite, and suggests that this phrase should be changed to either "less than" or "about". In response, claim 29 has been amended according to the Examiner's kind suggestion.

35 USC §103

The Examiner has rejected claims 1-19, 21-33, and 36 under 35 USC 103(a) as being unpatentable over Dixon, US 6,407,044; asserting that Dixon teaches aerosol personal cleansing compositions (see abstract); that an example of such a composition is a shower gel base comprising 4.73% sodium lauryl ether sulfate, 3% glycerin, 5.25% lauroamphoacetate, 2.43% palm kernel fatty acid, 0.4% cationic polymer, and the balance water wherein the base is dispensed in a pressurized mixer containing 85-97% base and 3-15% propellant (col. 15, example 1); that another example comprises 5.13% sodium lauryl ether sulfate, 0.5% trihydroxystearin, 1.43% lauroamphoacetate, 0.3% cationic polymer, 5% petrolatum, 7.5% soybean oil, and the balance water wherein the base is dispensed in a pressurized mixer

containing 85-97% base and 3-15% propellant (col. 15, example F); that the viscosity of these compositions may be as high as 100,000 cps (col. 11, lines 30-44) and the propellants may be present inside the composition or outside of the composition (col. 16, lines 10-15); that with respect to the present compositions being present in a lamellar phase, as fatty acids are well known in the art as lamellar structurants, the Examiner maintains these examples will inherently exhibit this property.

In response, applicants have amended claim 29 to include the limitation that the cleansing composition is contained in an aerosol piston can. Claim 31 has been cancelled because it is redundant in light of this amendment. Claims 1-28 directed to a liquid cleansing and moisturizing composition, are also cancelled. New claims 37-61 based on the cancelled claims but now made dependent on amended claim 29 or claims depending therefrom, have been added.

Dixon relates to aerosol personal cleansing emulsion compositions which contain low vapor pressure propellants and that are packaged into an appropriate aerosol container including aerosol metal containers and bag-in-bottle or bag-in-can containers (see col. 16, lines 10-13). There is no disclosure or suggestion in Dixon of a composition that can be packaged in an aerosol container that contains an imperfect barrier seal such as an aerosol piston can. Such piston cans require unique rheological properties so that the composition does not flow by the piston and become contaminated with the aerosol propellant contained in the container. None of Dixon's examples disclose a liquid cleansing and moisturizing composition and dispensing system comprising a neat cleansing lotion and a volatile foaming agent formulated therein having an initial viscosity greater than 40,000 cps measured at 10Pa at 25° C, which is contained in a piston can. Dixon's examples disclose compositions suited for an aerosol container that has no barrier or a bag-in-bottle or bag-in-can that has a perfect barrier.

Formal Drawings

Applicants respectfully request the Examiner to acknowledge receipt of, and the acceptability of, the formal drawings mailed on September 18, 2003.

Summary

In summary, by the present amendments, claim 29 is amended to include the limitation that the cleansing composition is contained in an aerosol piston can. Claim 31 has been cancelled because it is redundant in light of this amendment, and claims 1-28, directed to a liquid cleansing and moisturizing composition, are also cancelled. New claims 37 - 61 have been added. Applicants submit that no new matter has been added by these amendments.

CONCLUSION

In light of the above amendment and remarks, applicants submit that the claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,



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